

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA, for the
use of ABSCO ALARMS, INC., a
Washington corporation,

Plaintiff,

v.

SAFECO INSURANCE COMPANY OF
AMERICA, a Massachusetts company,

Defendant.

Case No. 3:16-cv-05397-RBL

STIPULATED MOTION TO STAY
PROCEEDINGS PENDING DISPUTE
RESOLUTION

I. STIPULATION

Pursuant to LCR 10(g), Plaintiff, Absco Alarms, Inc. ("Absco"), and defendant, Safeco Insurance Company of America ("Safeco"), through their attorneys, hereby respectfully move this Court for a stay of proceedings.

1. This lawsuit relates to Absco's Miller Act bond claim that it is owed additional compensation from Veterans Northwest Construction LLC ("VNW") on the main contract VNW has with the United States Navy for work performed on a project located at Navy Base Kitsap Bangor, Washington. Absco's claim for additional compensation is currently pending before the Navy and will proceed to resolution as part of claim resolution set forth in the subcontract with VNW, which includes mediation and arbitration with JAMS together with the

dispute resolution procedure set forth in the Main Contract with the Navy.

2. Since Absco's claim against the Safeco bond is contractually related to the outcome of the alternative dispute resolution process in the main contract, a determination of the main claim will potentially resolve any issues on the bond claim set forth in this lawsuit.

Good cause exists for the court to stay this legal action pending the outcome of the alternative disputes resolution process and the efficient resolution of this legal proceeding.

II. ARGUMENT

"The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket." *Clinton v. Jones*, 520 U.S. 681, 706 (1997). "[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the cases on its docket with economy of time and effort for itself, for counsel and for litigants." *Landi v. North Am. Co.*, 299 U.S. 248, 154-55 (1936). A stay may be appropriate when separate proceedings related to the suit are pending in another forum. *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979).

A court determining whether to grant a stay "must weigh competing interests and maintain an even balance." *Landis*, 299 U.S. at 254-55. The Ninth Circuit has articulated that the interests to be weighed include: "the possible damage which may result from granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measure in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay." *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). In this case, all three factors weigh heavily in favor of staying the instant proceeding.

Pursuant to this stipulation, the parties will file a status report with the court every six months from the date of entry of the order staying the proceedings. Nothing in this Stipulation shall be construed as a waiver of claims and/or defenses that can or may be asserted

by non-party VNW.

DATED this 24th day of June, 2016, and jointly presented by:

s/ James T. Yand

James T. Yand, WSBA No. 18730

s/ Daniel J. Oates

Daniel J. Oates, WSBA No. 39334
Miller Nash Graham & Dunn LLP
Pier 70
2801 Alaskan Way, Suite 300
Seattle, WA 98121
Telephone: (206) 624-8300
Fax: (206) 340-9599
E-mail: james.yand@millernash.com
E-mail: dan.oates@millernash.com

Attorneys for Plaintiff

s/ Michael P. Grace

Michael P. Grace, WSBA No. 26091

s/ Meredith L. Thielbahr

Meredith L. Thielbahr, WSBA No. 41746
Groff Murphy PLLC
300 East Pine Street
Seattle, WA 98122
Telephone: (206) 628-9500
Fax: (206) 628-9506
E-mail: mgrace@groffmurphy.com
E-mail: mthielbahr@groffmurphy.com

Attorneys for Defendant

III. ORDER

The Court grants Plaintiff Absco and Defendant Safeco's stipulated motion to stay the case [Dkt. #11] until they have completed the alternative dispute resolution process.

It is so ordered.

DATED this 27th day of June, 2016.



Ronald B. Leighton (as auth/dn)
United States District Judge